

# Notice of Allowability

Application No.

10/068,924

Examiner

Walter B. Aughenbaugh

Applicant(s)

WHITMORE ET AL.

Art Unit

1772

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed May 3, 2005.
2. ☒ The allowed claim(s) is/are 1,3-53 and 55-84.
3. ☒ The drawings filed on 08 February 2002 and 21 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 07202005.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

1. The amendments in claims 1, 53, and 84 made in the Amendment filed on May 3, 2005 have been received and considered by Examiner.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Michael W. Ferrell on July 20, 2005.

4. The application has been amended as follows:

In the abstract, in the twelfth line of the abstract, replace "member in order to seal the container. The laterally extending retaining shelf in the" with --member.--; delete the thirteenth through seventeenth lines of the abstract.

In the specification, in line 8, replace "(Attorney Docket No. 2242)." with --(Attorney Docket No. 2242), now U.S. Pat. No. 6,733,852;--; in line 9, insert --, now U.S. Pat. No. 6,733,852,-- between "No.09/921,264" and "was"; in line 10, replace "title." with --title;--; in line 12, replace "(Attorney Docket No. 2366). The" with --(Attorney Docket No. 2366); the--.

In the claims, in claim 19, line 1, delete "sealable"; in claim 20, line 1, delete "sealable"; in claim 38, line 1, replace "said thermoplastic material comprises" with --said base serving member is made from--; in claim 60, line 1, delete "sealable"; in claim 69, line 1, replace "The thermoplastic container" with --The food container--; in claim 69, lines 1-2, replace "said thermoplastic material comprises" with --said base serving member is made from--.

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*Allowable Subject Matter*

5. Claims 1, 3-53, 55-84 are allowed.

*Reasons for Allowance*

6. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach or suggest a food container comprising a base serving member and a sealing lid having a base sidewall comprising a sealing recess disposed between the substantially planar base central portion of the base serving member and the base outer flange portion where the recess has the combination of an inwardly projecting base stop ridge and an inwardly facing annular sealing surface that is located between the base stop ridge and the lower extremity of the recess and that is also located at an outer wall of the sealing recess, and where a laterally extending, internal retaining shelf is located at the lower extremity of the sealing recess, as recited in each of the independent claims (i.e. 1, 53 and 84), and where the base serving member and the sealing lid are configured such that when the sealing lid is forced downwardly on the base serving member the sealing lid is secured to the base serving member by cooperation of the base stop ridge of the base serving member and the lid stop ridge of the sealing lid, as recited in each of the independent claims (i.e. 1, 53 and 84).

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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*Conclusion*


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh  
07/20/05

WBA

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER

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7/24/05